

Remarks

Claims 1-12, 14-16, and 18-40 are pending.

Claims 1-12, 14-16, and 18-31 are rejected.

Claims 32-40 are new.

Claims 1-5, 7-11, 14-15, 18-31 are rejected under 35 U.S.C. 102(b).

Claims 6, 12, and 16 are rejected under 35 U.S.C. 103(a).

Claim Amendments

Claims 1, 8, 9, 15, 22, 26, and 30 have been amended. Claims 32-40 are new.

Support for the amendments and the new claims may be found in the specification as filed, for example, on pages 4-7. No new matter has been added.

Claim Rejections – 35 U.S.C. § 102

Claims 1-5, 7-11, 13-15, and 17-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al U.S. Patent No. 5,758,257 ("Herz").

Claim 1 has been amended to include "a module operable to extract content identifying data associated with a particular content signal of the content signals from that particular content signal." Claim 22 recites a similar element. Although in Herz, shows have been described as having associated content profiles, the associated content profiles are not described as being a part of the show. *Herz, col. 41, ll. 1-3*. Thus, no module operable to extract content identifying data from a content signal is disclosed in Herz. As a result, Herz does not teach each and every element of claim 1, and similarly claim 22. The Applicant respectfully requests that the Examiner withdraw the rejection of claims 1 and 22, and dependent claims 2-8, and 23-25.

Claim 9 has been amended to include "a processor operable to monitor services available information, the services available information indicating an availability of services at the network termination unit." Claims 8, 15, 26, and 30 include similar elements.

Although Herz describes “a means for monitoring which shows are being watched by the consumer,” no means, device, or method is described to monitor the availability of services at the network termination unit. *Herz*, col. 41, ll. 6-8.

Furthermore, assuming that a show being watched means that the show is available, the state of the show being available does not mean that the state of availability was monitored. The distinction is the difference between the existence of a state and the monitoring of that state.

As a result, Herz does not teach each and every element of claims 8, 9, 15, 26, and 30, and dependent claims 10-12, 14, 16, 18-21, 27-29, and 30-31. The Applicant respectfully requests that the Examiner withdraw the rejections of claims 8-12, 14-16, 18-21, and 26-31.

Claim 32 recites “a processor operable to monitor a quality of service of services provided to the network termination unit.” Claim 36 includes a similar element. Although as described above, Herz describes monitoring shows being watched, there is no description of monitoring the quality of service of those show or other services. Thus, Herz does not teach each and every element of claim 32 and 36, and dependent claims 33-35, and 37-39.

Claim Rejections – 35 U.S.C. § 103

Claims 6, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz as applied to claims 1, 10, and 15 above, and in view of Zintel U.S. Patent No. 6,779,004 (“Zintel”).

As described above, Herz does not teach each and every element of independent claims 1, 9, and 15, the parent claims of claims 6, 12, and 16. The addition of Zintel, both separate and in combination with Herz, does not suggest or render obvious each and every element of independent claims 1, 9, and 15. Thus the Applicant requests that the Examiner withdraw the rejections of claims 6, 12, and 16.

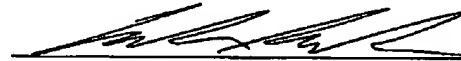
Conclusion

For the foregoing reasons, reconsideration and allowance of claims 1-12, 14-16, and 18-40 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Customer No. 20575

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Derek Meeker
Reg. No. 53,313

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613